

1 JUDGE KAREN L. STROMBOM
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 TERRY WELLS and DANA WELLS,
10 individually and as Natural
11 Guardians and Next Friends of E.A.
12 WELLS, their minor child,

Plaintiffs,

13 vs.

14 THYSSENKRUPP ELEVATOR
15 CORPORATION, THYSSENKRUPP
16 ELEVATOR MANUFACTURING,
17 INC., HARBORSIDE INN, DON D.
ROBERTS, GALE STUDER, SCOTT
STUDER, LYNN STUDER,
L. GEHRKE, and P. GEHRKE,

18 Defendants.

19 NO. C05-5725 KLS

20 JOINT PROTECTIVE ORDER RE
21 CONFIDENTIAL DOCUMENTS
22 CONCERNING MINOR CHILD

23 The parties, by their undersigned counsel, stipulate as follows:

24 1. In response to the requirement for initial disclosures and in
25 response to requests for production issued by the parties to plaintiffs, the
plaintiffs will be producing documents concerning the minor child, E.A. Wells
("minor child"). Some of these documents may contain sensitive, personal,
medical and educational information which, if generally available, would do

1 damage to the minor child. These documents will be provided to each party to
2 this lawsuit with a red stamp declaring them confidential.

3 2. The parties and their undersigned counsel agree that documents
4 produced by plaintiff in discovery and stamped confidential shall be treated as
5 confidential, as further described herein.
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7 3. The parties agree that the documents produced as described in
8 paragraph 1, including the contents thereof, shall be used only for purposes of
9 preparing the above-referenced litigation for trial.
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11 4. Further, to the extent that depositions of persons involve a specific
12 discussion of the contents (as opposed to the existence) of confidential
13 documents, then those portions of the depositions should also be treated as
14 confidential, as further described herein.
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16 5. The parties agree that the confidential documents, including the
17 contents thereof, shall not be disseminated to anyone other than:
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- 19 A. The parties, their insurers and the parties' attorneys in this
20 litigation, including their partners, associates, secretaries, paralegal
21 assistants, and other employees who may be assisting in the
22 litigation of said litigation;
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24 B. Experts retained for the purpose of consulting or testifying in this
25 litigation;
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27 C. Court officials involved in this litigation, including court reporters
28 and persons operating video recording equipment at depositions, as
29 may be required for purposes of attaching exhibits to depositions;
30 and
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32 D. Jurors and other third persons present during any court
33 proceeding; provided that during such proceedings, a party
34 intending to offer information covered by this protective order
35 will first notify the affected party in sufficient time to allow the
36

1 affected party an opportunity to remove the plaintiffs' minor
2 child A.E. Wells (hereinafter "the minor child") from the
3 courtroom during presentation of the information, and to allow
4 the affected party the opportunity to request that the court
5 consider removing from the courtroom any third person who's
6 presence is not necessary for the outcome of that proceeding.

7 6. To the extent that confidential documents are attached to
8 transcripts of depositions, or to pleadings to be filed with the court, then the
9 confidential documents will be filed under seal, not to be disclosed to the minor
10 child or to the public absent specific order from the court.

11 7. The parties and their undersigned counsel agree to provide a copy
12 of this Stipulation and Protective Order to any expert who is to be provided
13 with a copy of the confidential documents, and to require that such expert
14 maintain the confidentiality of such documents. Such experts will be required
15 to sign a copy of this Stipulation and Protective Order, signifying agreement to
16 its provisions and consenting to the jurisdiction of the court over his or her
17 person for purposes of enforcing the terms of this Stipulation and Protective
18 Order.

19 8. All expert witnesses who receive the documents described in
20 paragraph 1 shall keep the information confidential, use the documents only
21 for this litigation, and shall not disclose such information to the minor child or
22 to any third person without written consent from the producing party or its
23 attorney. At the conclusion of the expert's services in this litigation, all copies
24 of the confidential documents shall be returned to plaintiff's counsel.

1 9. Neither counsel, employees of the law firms involved in the
2 litigation, the defendants' insurers, nor experts retained for purposes of
3 consulting or testifying shall disseminate the confidential documents or the
4 contents thereof to the minor child or to any third person, whether by oral
5 description or by writing, or by any other means, outside the group of persons
6 listed in paragraph 5.

7 10. At the conclusion of this litigation, all parties and those persons
8 identified in paragraph 5 (other than court personnel) shall return all
9 documents identified in paragraph 1 to plaintiffs' attorney, or destroy the
10 documents at the request of plaintiffs' counsel.

11 11. The parties, all counsel, and all other persons signing this
12 Stipulation and Protective Order agree to submit to the jurisdiction of the court
13 for purposes of enforcing the Stipulation and Order.

14 12. Nothing in this Stipulation and Order shall preclude
15 reconsideration by the Court of any of the terms of the Order upon the Court's
16 own motion after notice to the parties and an opportunity to be heard, or upon
17 written application by a party, with notice to the other parties, and for good
18 cause shown.

19 13. The parties, all counsel, and all other persons signing this
20 Stipulation and Protective Order who receive copies of the minor child's
21 medical records, medical history, mental health records, counseling records, or
22 educational records by stipulation, subpoena, or method other than production
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1 by plaintiffs' counsel shall mark and treat all such documents as confidential
2 in accordance with this Stipulation and Order.
3
4

5 Dated this _____ day of _____, 2006.
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WILSON SMITH COCHRAN & DICKERSON
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9 By _____
10 Whitney Smith
WSBA # 21159

11 Attorneys For Defendants ThyssenKrupp Elevator Manufacturing,
Inc. and ThyssenKrupp Elevator Corporation
12
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14 MACDONALD HOAGUE & BAYLESS
15
16

By _____
17 Jay Brown
WSBA # 19835
18 Attorneys For Plaintiffs
19

20 FALLON & MCKINLEY
21

22 By _____
23 Nancy McKinley
WSBA #7992
24 Attorneys For Defendants Harborside Inn, Roberts
Studer and Gehrke
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ORDER

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

2 The foregoing stipulation of counsel shall control the production,
3 dissemination and use of all documents produced in discovery as described in
4 paragraph 1 of the stipulation.

5 DATED this 16th day of October, 2006.
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9 Karen L. Strombom
United States Magistrate Judge

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11 Presented By:
12

13 WILSON SMITH COCHRAN & DICKERSON

14 By (original signed)
15 Whiney Smith
16 WSBA # 21159
17 Attorneys For Defendants ThyssenKrupp Elevator Manufacturing,
Inc. and ThyssenKrupp Elevator Corporation

18
19 MACDONALD HOAGUE & BAYLESS

20
21 By (original signed)
22 Jay Brown
23 WSBA # 19835
24 Attorneys For Plaintiffs

25 FALLON & MCKINLEY
26

1
2 By (original signed)
3 Nancy McKinley
4 WSBA #7992
5 Attorneys For Defendants Harborside Inn, Roberts
6 Studer and Gehrke
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JOINT PROTECTIVE ORDER RE
CONFIDENTIAL DOCUMENTS- 7
WELLS/WCS/1455.019

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